

Regulations help endangered sea turtles make a comeback

By Darrell Echols and Ed Kassman

IN WHAT HAS NOW BECOME a familiar south Texas rite of spring at Padre Island National Seashore, “turtle patrollers” mount their ATVs and comb the beach for nesting Kemp’s ridley sea turtles, the most critically endangered sea turtle in the world. From the 1950s to the 1980s, humans caused the population of Kemp’s ridley sea turtles to decline nearly to the point of extinction. Through a remarkable international effort involving Mexico, the National Marine Fisheries Service, and the National Park Service, the turtles are making a comeback.

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A challenge in protecting their nesting sites is ensuring that heavy equipment being shuttled up and down the beach by oil and gas operators en route to production sites does not crush the turtles, their nests, or hatchlings, or impede hatchlings from getting to the ocean. Oil and gas rights existed at Padre Island long before Congress created this unit of the National Park System, and these rights are still held by private entities and the state. However, the park has skillfully applied regulations and well-tailored mitigation techniques to oil and gas operations, playing a key role in the Kemp’s ridley’s recovery.



Endangered Kemp’s ridley sea turtle numbers gradually continue to climb at Padre Island National Seashore. A key to this success has been the efforts of NPS turtle patrollers to locate nest sites (right) so that heavy equipment being shuttled up and down the beach by oil and gas operators en route to production sites does not crush the turtles, their nests, or hatchlings, or impede hatchlings from getting to the ocean. Another important mitigation measure is heavy equipment convoys led by NPS turtle patrol escorts (left).

A key right associated with mineral ownership is that of reasonable access across the surface to explore for, develop, and transport the oil and gas resources. If the National Park Service denied all surface access to the mineral rights holders, the United States would be required to purchase the mineral rights at fair market value. So, despite Padre Island National Seashore’s designation as a unit of the National Park System, and the United States’ ownership of the surface interest, mineral resources are still being developed in the unit.

Regulations promulgated in 1979 require that operators have a National Park Service–approved plan of operations, which will include resource protection measures, provide a reclamation plan, and file a suitable performance bond. Through this requirement the National Park Service can proactively ensure that operators avoid or mitigate expected impacts on park resources and values.

To protect the nesting Kemp’s ridley, for instance, an operator is required to comply with the following partial list of mitigation measures at Padre Island National Seashore:

- Operator’s employees and contractors must attend an NPS turtle training and awareness course, which includes identification of turtle tracks, a notification protocol to follow in the event that turtles or nesting grounds are located, and marking the location of tracks or nests if an employee or contractor is unable to stay on-site until official crew members arrive.
- During peak Kemp’s ridley nesting season, operators’ vehicle convoys will not leave before an NPS turtle patrol inspects the beach ahead of them and notifies operators that larger vehicles can travel the beach safely.



- ATVs and large trucks must drive no faster than 15 miles per hour.
- Trucks are required to drive above the “wet-line” on the beach so that turtle tracks can be identified.
- A backhoe or tractor must be stationed on the beach to smooth out ruts after having a monitor on an ATV check for nesting turtles or tracks.
- Larger vehicles are prohibited from traveling at night to minimize impacts on night-nesting turtles, which include the green, logger-head, hawksbill, and leatherback.

With these mitigation measures the park has successfully protected Kemp’s ridley nests. It has never documented a hatchling death, death of a nesting sea turtle, or crushing of a sea turtle nest by an oil and gas operator since the program began 25 years ago. In addition, the Kemp’s ridley population has slowly but steadily increased since the mid-1980s.

Although it is certain that the absence of mineral development at Padre Island National Seashore would lower the risk to the Kemp’s ridley’s recovery, the park has succeeded in fulfilling Congress’s directive to manage resources while recognizing the rights of mineral operators to access the surface and develop their property interest. ■

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Oil and gas management plan for Padre Island National Seashore upheld in court

By Darrell Echols and Ed Kassman

On April 17, 2002, the Sierra Club filed suit in federal district court in Texas against the Secretary of the Interior, the National Park Service, and the U.S. Fish and Wildlife Service. The Sierra Club’s complaint alleged that the National Park Service violated section 7 of the Endangered Species Act when it prepared its oil and gas management plan and also when it approved two private oil and gas operations. Specifically, the Sierra Club claimed that the Park Service was not adequately protecting Kemp’s ridley sea turtles, a federally listed endangered species. The district court ruled in favor of the National Park Service, holding that the oil and gas management plan was not subject to judicial review and that the Park Service had acted reasonably when it approved operations at the two well sites. The court also noted that the Park Service has required the company drilling the wells to adhere to extensive mitigation to protect the turtles (see page 92). The Sierra Club appealed to the Fifth Circuit Court of Appeals, which affirmed the lower court’s decision. No appeal to the Supreme Court is expected.

Since 1979 the National Park Service has managed the exercise of nonfederal oil and gas rights to avoid or minimize damage to park resources and values. In 1995, private mineral owners at Padre Island National Seashore sued the park in federal district court challenging the park’s authority to regulate the exercise of private mineral rights. In that case, the district court ruled in favor of the National Park Service, and the Fifth Circuit Court of Appeals affirmed the lower court’s determination. The Fifth Circuit’s ruling in the Sierra Club’s most recent challenge further assures Padre Island National Seashore and the National Park Service of the effectiveness of regulatory authority regarding private oil and gas activities to protect all park resources, including the endangered Kemp’s ridley sea turtle. ■

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